

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to Investigate the)
Implementation of Feed-in Tariffs.)
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)
_____)

DOCKET NO. 2008-0273

PUBLIC UTILITIES
COMMISSION

2009 AUG 13 P 3:39

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**THE SOLAR ALLIANCE'S, HAWAII SOLAR ENERGY ASSOCIATION'S, AND
HAWAII RENEWABLE ENERGY ALLIANCE'S
RESPONSES TO INFORMATION REQUESTS PREPARED BY THE COMMISSION'S
CONSULTANT, THE NATIONAL REGULATORY RESEARCH INSTITUTE**

AND

CERTIFICATE OF SERVICE

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII


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**THE SOLAR ALLIANCE'S, HAWAII SOLAR ENERGY ASSOCIATION'S,
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RESPONSES TO INFORMATION REQUESTS PREPARED BY THE COMMISSION'S
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Pursuant to the Hawaii Public Utilities Commission's (the "Commission") letter, dated August 3, 2009, The Solar Alliance ("SA"), Hawaii Solar Energy Association ("HSEA"), and Hawaii Renewable Energy Alliance (herein after jointly referred to as "SA/HSEA/HREA") hereby submits the following responses to the Information Requests ("IRs") prepared by the Commission's Consultant, The National Regulatory Research Institute.

Respectfully submitted.

DATED: Honolulu, Hawaii, August 13, 2009



MARK DUDA

President, Hawaii Solar Energy Association

Respectfully submitted.

DATED: Honolulu, Hawaii, Aug. 13 2009.



RILEY SAITO

for The Solar Alliance

Respectfully submitted.

DATED: Honolulu, Hawaii, August 13, 2009

A handwritten signature in cursive script, reading "Warren S. Bollmeier II", written over a horizontal line.

WARREN S. BOLLMEIER II

PRESIDENT

HAWAII RENEWABLE ENERGY ALLIANCE

1. During the course of the hearing and in submittals, certain parties described the difficulty in monetizing state tax credits. The Commission asks for a detailed explanation, citing the specific tax statutes of the tax credits that developers cannot often monetize. If the tax credits are useful for some projects, such as residential solar PV installations, but not others, please specify which projects the specific available tax credits are or are not frequently available for and why.

Response: During the course of the hearing and in its submittals SA/HSEA referred to the tax credit allowed under section 235-12.5(3), Hawaii Revised Statutes. Since the hearing and its submittals, on June 25, 2009, the Governor signed into law, Act 154 which allows an eligible taxpayer to elect to reduce the 35% non-refundable solar energy systems tax credit by 30% (making the effective rate 24.5%) and take the credit as refundable. (Act 154 is attached.) SA/HSEA/HREA expect this change in the tax policy to allow the State tax credit to be monetized at the 24.5% level, though this expectation has not been tested fully because the law took effect only on July 1, 2009.

With the current economic conditions, in which even fewer entities will have sufficiently large tax bills to make use of the non-refundable tax credit, monetization of the State tax credit at the 35% level remains extremely difficult. SA/HSEA/HREA expect that it will be used even more infrequently than for the 2008 tax year, on which SA/HSEA's previous comments were principally based.

SA/HSEA/HREA note that the 24.5% refundable option is available to both residential and commercial customers. SA/ HSEA/HREA cannot provide meaningful insight into the extent to which residential customers will choose the refundable option when they file their 2009 taxes next April. SA/HSEA/HREA can, however, report that for commercial customers it is clearly an important new avenue for accessing the State incentive.

However, if there is any amendments in Act 154 in the future, SA/HSEA/HREA respectfully request that the Commission to reconsider the FiT rates immediately and not wait for the scheduled evaluation period. Reconsideration of FiT rates should also take place for existing FiT contracts whose developers were not able to utilize Act 154 prior to such amendments.

2. The Commission is evaluating FiT rates that are non-levelized. Like levelized rates, such rates would provide projects recovery of their costs and a reasonable rate of return. Non-levelized rates would increase over time based on a predetermined discount or inflation rate. Pages 27 through 29 of Haiku Design and Development's opening brief describe and illustrate such an approach.

The Commission requests that the parties provide feedback on whether such rates, if they provide the same level of compensation (when adjusting for the time value of money) would be practicable for developers. In particular, could debt and equity financing structures accommodate rates that provide lower compensation early on and more compensation later, reducing early cash flow? Would doing so increase the overall required FiT compensation?

Response:

Yes, such rates, if they provide the same level of compensation (when adjusting for the time value of money) would be practicable for developers.

Yes, debt and equity financing structures could accommodate rates that provide lower compensation early on and more compensation later, reducing early cash flow.

However, the initial value must not be so low that insufficient cash flow in early periods forces the use of more debt, increasing project costs.

No, it would not increase the overall required FiT compensation.

CERTIFICATE OF SERVICE

The foregoing Responses to Information Requests was served on the date of filing by
hand delivery or electronically transmitted to the following Parties:

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DATED: Honolulu, Hawaii, August 13, 2009


A handwritten signature in black ink, appearing to read 'Mark Duda', is written over a horizontal line. The signature is fluid and cursive.

MARK DUDA

President, Hawaii Solar Energy Association



GOV. MSG. NO. 771

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 25, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 25, 2009, the following bill was signed into law:

SB464 SD2 HD2 CD2

A BILL FOR AN ACT
RELATING TO TAXATION.
ACT 154 (09)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", with a stylized flourish at the end.

LINDA LINGLE

Approved by the Governor

on JUN 25 2009

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

ACT 154
S.B. NO. 464
S.D. 2
H.D. 2
C.D. 2

A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 235-12.5, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§235-12.5 Renewable energy technologies; income tax**
4 **credit.** (a) When the requirements of subsection ~~[(e)]~~ (d) are
5 met, each individual or corporate taxpayer that files an
6 individual or corporate net income tax return for a taxable year
7 may claim a tax credit under this section against the Hawaii
8 state individual or corporate net income tax. The tax credit
9 may be claimed for every eligible renewable energy technology
10 system that is installed and placed in service in the State by a
11 taxpayer during the taxable year. ~~[This credit shall be~~
12 ~~available for systems installed and placed in service in the~~
13 ~~State after June 30, 2003.]~~ The tax credit may be claimed as
14 follows:

15 ~~[(1) Solar thermal energy systems for:~~
16 ~~(A) Single family residential property for which a~~
17 ~~building permit was issued prior to January 1,~~



- 1 ~~2010: thirty five per cent of the actual cost or~~
2 ~~\$2,250, whichever is less,~~
- 3 ~~(B) Multi family residential property: thirty five~~
4 ~~per cent of the actual cost or \$350 per unit,~~
5 ~~whichever is less, and~~
- 6 ~~(C) Commercial property: thirty five per cent of the~~
7 ~~actual cost or \$250,000, whichever is less,~~
- 8 ~~(2) Wind powered energy systems for:~~
- 9 ~~(A) Single family residential property: twenty per~~
10 ~~cent of the actual cost or \$1,500, whichever is~~
11 ~~less,~~
- 12 ~~(B) Multi family residential property: twenty per~~
13 ~~cent of the actual cost or \$200 per unit,~~
14 ~~whichever is less, and~~
- 15 ~~(C) Commercial property: twenty per cent of the~~
16 ~~actual cost or \$500,000, whichever is less, and~~
- 17 ~~(3) Photovoltaic energy systems for:~~
- 18 ~~(A) Single family residential property: thirty five~~
19 ~~per cent of the actual cost or \$5,000, whichever~~
20 ~~is less,~~



~~(B) Multi-family residential property: thirty five per cent of the actual cost or \$350 per unit, whichever is less; and~~

~~(C) Commercial property: thirty five per cent of the actual cost or \$500,000, whichever is less;]~~

(1) For each solar energy system: thirty-five per cent of the actual cost or the cap amount determined in subsection (b), whichever is less; or

(2) For each wind-powered energy system: twenty per cent of the actual cost or the cap amount determined in subsection (b), whichever is less;

provided that multiple owners of a single system shall be entitled to a single tax credit; and provided further that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the system.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every eligible renewable energy technology system that is installed and placed in service in the State by the entity. The cost upon which the tax credit is computed shall be determined at the entity level.

Distribution and share of credit shall be determined pursuant to section 235-110.7(a).



1 (b) The amount of credit allowed for each eligible
2 renewable energy technology system shall not exceed the
3 applicable cap amount, which is determined as follows:

4 (1) If the primary purpose of the solar energy system is
5 to use energy from the sun to heat water for household
6 use, then the cap amounts shall be:

7 (A) \$2,250 per system for single-family residential
8 property;

9 (B) \$350 per unit per system for multi-family
10 residential property; and

11 (C) \$250,000 per system for commercial property;

12 (2) For all other solar energy systems, the cap amounts
13 shall be:

14 (A) \$5,000 per system for single-family residential
15 property; provided that if all or a portion of
16 the system is used to fulfill the substitute
17 renewable energy technology requirement pursuant
18 to section 196-6.5(a)(3), the credit shall be
19 reduced by thirty-five per cent of the actual
20 system cost or \$2,250, whichever is less;

21 (B) \$350 per unit per system for multi-family
22 residential property; and



1 (C) \$500,000 per system for commercial property;

2 and

3 (3) For all wind-powered energy systems, the cap amounts
4 shall be:

5 (A) \$1,500 per system for single-family residential
6 property; provided that if all or a portion of
7 the system is used to fulfill the substitute
8 renewable energy technology requirement pursuant
9 to section 196-6.5(a)(3), the credit shall be
10 reduced by twenty per cent of the actual system
11 cost or \$1,500, whichever is less;

12 (B) \$200 per unit per system for multi-family
13 residential property; and

14 (C) \$500,000 per system for commercial property.

15 [~~(b)~~] (c) For the purposes of this section:

16 "Actual cost" means costs related to the renewable energy
17 technology systems under subsection (a), including accessories
18 and installation, but not including the cost of consumer
19 incentive premiums unrelated to the operation of the system or
20 offered with the sale of the system and costs for which another
21 credit is claimed under this chapter.



1 "Household use" means any use to which heated water is
2 commonly put in a residential setting, including commercial
3 application of those uses.

4 "Renewable energy technology system" means a new system
5 that captures and converts a renewable source of energy, such as
6 ~~[wind, heat (solar thermal), or light (photovoltaic) from the~~
7 ~~sun]~~ solar or wind energy, into:

- 8 (1) A usable source of thermal or mechanical energy;
9 (2) Electricity; or
10 (3) Fuel.

11 "Solar or wind energy system" means any identifiable
12 facility, equipment, apparatus, or the like that converts
13 ~~[insolation]~~ solar or wind energy to useful thermal or
14 electrical energy for heating, cooling, or reducing the use of
15 other types of energy that are dependent upon fossil fuel for
16 their generation.

17 ~~[-(e)]~~ (d) For taxable years beginning after December 31,
18 2005, the dollar amount of any utility rebate shall be deducted
19 from the cost of the qualifying system and its installation
20 before applying the state tax credit.

21 ~~[-(d)]~~ (e) The director of taxation shall prepare any forms
22 that may be necessary to claim a tax credit under this section,



1 including forms identifying the technology type of each tax
2 credit claimed under this section, whether for ~~[solar thermal,~~
3 ~~photovoltaic from the sun,]~~ solar or wind. The director may
4 also require the taxpayer to furnish reasonable information to
5 ascertain the validity of the claim for credit made under this
6 section and may adopt rules necessary to effectuate the purposes
7 of this section pursuant to chapter 91.

8 ~~[(e)]~~ (f) If the tax credit under this section exceeds the
9 taxpayer's income tax liability, the excess of the credit over
10 liability may be used as a credit against the taxpayer's income
11 tax liability in subsequent years until exhausted~~[-]~~, unless
12 otherwise elected by the taxpayer pursuant to subsection (g) or
13 (h). All claims for the tax credit under this section,
14 including amended claims, shall be filed on or before the end of
15 the twelfth month following the close of the taxable year for
16 which the credit may be claimed. Failure to comply with this
17 subsection shall constitute a waiver of the right to claim the
18 credit.

19 ~~[(f)] By or before December, 2005, to the extent feasible,~~
20 ~~using existing resources to assist the energy efficiency policy~~
21 ~~review and evaluation, the department shall assist with data~~
22 ~~collection on the following:~~



~~(1) The number of renewable energy technology systems that have qualified for a tax credit during the past year by:~~

~~(A) Technology type (solar thermal, photovoltaic from the sun, and wind); and~~

~~(B) Taxpayer type (corporate and individual); and~~

~~(2) The total cost of the tax credit to the State during the past year by:~~

~~(A) Technology type; and~~

~~(B) Taxpayer type.~~

~~(g) For systems installed and placed in service in 2009, no residential home developer shall be entitled to claim the credit under subsections (a)(1)(A), (a)(2)(A), and (a)(3)(A). A residential home developer is defined as a person who holds more than one residential dwelling for sale as inventory.]~~

(g) For solar energy systems, a taxpayer may elect to reduce the eligible credit amount by thirty per cent and if this reduced amount exceeds the amount of income tax payment due from the taxpayer, the excess of the credit amount over payments due shall be refunded to the taxpayer; provided that tax credit amounts properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; and provided further



1 that no refund on account of the tax credit allowed by this
2 section shall be made for amounts less than \$1.

3 The election required by this subsection shall be made in a
4 manner prescribed by the director on the taxpayer's return for
5 the taxable year in which the system is installed and placed in
6 service. A separate election may be made for each separate
7 system that generates a credit. An election once made is
8 irrevocable.

9 (h) Notwithstanding subsection (g), for any renewable
10 energy technology system, an individual taxpayer may elect to
11 have any excess of the credit over payments due refunded to the
12 taxpayer, if:

13 (1) All of the taxpayer's income is exempt from taxation
14 under section 235-7(a)(2) or (3); or

15 (2) The taxpayer's adjusted gross income is \$20,000 or
16 less (or \$40,000 or less if filing a tax return as
17 married filing jointly);

18 provided that tax credits properly claimed by a taxpayer who has
19 no income tax liability shall be paid to the taxpayer; and
20 provided further that no refund on account of the tax credit
21 allowed by this section shall be made for amounts less than \$1.



1 A husband and wife who do not file a joint tax return shall
2 only be entitled to make this election to the extent that they
3 would have been entitled to make the election had they filed a
4 joint tax return.

5 The election required by this subsection shall be made in a
6 manner prescribed by the director on the taxpayer's return for
7 the taxable year in which the system is installed and placed in
8 service. A separate election may be made for each separate
9 system that generates a credit. An election once made is
10 irrevocable.

11 (i) No taxpayer shall be allowed a credit under this
12 section for the portion of the renewable energy technology
13 system required by section 196-6.5 that is installed and placed
14 in service on any newly constructed single-family residential
15 property authorized by a building permit issued on or after
16 January 1, 2010.

17 (j) To the extent feasible, using existing resources to
18 assist the energy-efficiency policy review and evaluation, the
19 department shall assist with data collection on the following
20 for each taxable year:



(1) The number of renewable energy technology systems that have qualified for a tax credit during the calendar year by:

(A) Technology type; and

(B) Taxpayer type (corporate and individual); and

(2) The total cost of the tax credit to the State during the taxable year by:

(A) Technology type; and

(B) Taxpayer type.

(k) This section shall apply to eligible renewable energy technology systems that are installed and placed in service on or after July 1, 2009."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2009, and shall apply to taxable years beginning after December 31, 2008.

APPROVED this 25 day of JUN, 2009


GOVERNOR OF THE STATE OF HAWAII